

Small Business Administration

§ 123.404

business' mitigation measures must satisfy the following criteria:

(a) The mitigation measure, as described in the application, must serve the purpose of protecting your commercial real property (building) or leasehold improvements or contents from damage that may be caused by future disasters; and

(b) The mitigation measure must conform to the priorities and goals of the State or local government's mitigation plan for the community in which the business subject to the measure is located. To show that this factor is satisfied your business must submit to SBA, as a part of your complete application, a written statement from a State or local emergency management coordinator confirming this fact (see § 123.408). Contact your regional FEMA office for a list of your State's emergency management coordinators or visit the FEMA Web site at <http://www.fema.gov>.

§ 123.402 Can your business include its relocation as a mitigation measure in an application for a pre-disaster mitigation loan?

Yes, you may request a pre-disaster mitigation loan for the relocation of your business if:

(a) Your commercial real property (building) is located in a SFHA (Special Flood Hazard Area); and

(b) Your business relocates outside the SFHA but remains in the same participating pre-disaster mitigation community. Contact your regional FEMA office for a listing of communities participating in the Pre-Disaster Mitigation Program and SFHAs or visit the FEMA Web site at <http://www.fema.gov>.

§ 123.403 When is your business eligible to apply for a pre-disaster mitigation loan?

To be eligible to apply for a pre-disaster mitigation loan your business must meet each of the following criteria:

(a) Your business, which is the subject of the pre-disaster mitigation measure, must be located in a participating pre-disaster mitigation community. Each State, the District of Columbia, Puerto Rico, and the Virgin Islands have at least one participating pre-disaster mitigation community.

Contact your regional FEMA office to find out the locations of participating pre-disaster mitigation communities or visit the FEMA Web site at <http://www.fema.gov>;

(b) If your business is proposing a mitigation measure that protects against a flood hazard, the location of your business which is the subject of the mitigation measure must be located in a Special Flood Hazard Area (SFHA). Contact your FEMA regional office to find out the locations of SFHAs or visit the FEMA Web site at <http://www.fema.gov>;

(c) As of the date your business submits a complete Pre-Disaster Mitigation Small Business Loan Application to SBA (see § 123.408 for what SBA's considers to be a complete application), your business, along with its affiliates, must be a small business concern as defined in part 121 of this chapter. The definition of small business concern encompasses sole proprietorships, partnerships, corporations, limited liability entities, and other legal entities recognized under State law;

(d) Your business, which is the subject of the mitigation measure, must have operated as a business in its present location for at least one year before submitting its application;

(e) Your business, along with its affiliates and owners, must not have the financial resources to fund the proposed mitigation measures without undue hardship. SBA makes this determination based on the information your business submits as a part of its application; and

(f) If your business is owning and leasing out real property, the mitigation measures must be for protection of a building leased primarily for commercial rather than residential purposes (SBA will determine this based upon a comparative square footage basis).

§ 123.404 When is your business ineligible to apply for a pre-disaster mitigation loan?

Your business is ineligible to apply for a pre-disaster mitigation loan if your business (including its affiliates) satisfies any of the following conditions: